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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT  
ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. § 1.137(b)**

Docket No. Q64483

First named inventor: NISHINO, Masaaki

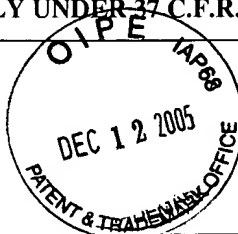
Application Number: 09/853,634

Filed: May 14, 2001

Title: INFORMATION DISPLAYING SYSTEM

Group Art Unit: 2672

Examiner: AMINI, Javid



Attention: Office of Petitions

**MAIL STOP PETITION**

Commissioner for Patents

P.O. Box 1450, Alexandria, VA 22313-1450

FAX: (703) 872-9306

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

1. Petition fee
  - ☐ Small entity - fee \$\_\_\_\_\_ (37 C.F.R. § 1.17(m)). Applicant claims small entity status. See 37 C.F.R. § 1.27.
  - ☒ Other than small entity - fee \$1,500.00 (37 C.F.R. § 1.17(m)).
2. Reply and/or fee
  - A. The reply and/or fee to the above-noted Office action in the form of Notice of Appeal (identify type of reply):
    - ☐ has been filed previously on \_\_\_\_\_.
    - ☒ is enclosed herewith.
  - B. The issue fee of \$\_\_\_\_\_:
    - ☐ has been paid previously on \_\_\_\_\_.
    - ☐ is enclosed herewith.
3. Terminal disclaimer with disclaimer fee
  - ☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
  - ☐ A terminal disclaimer (and disclaimer fee (37 C.F.R. § 1.20(d)) of \$\_\_\_\_\_ for a small entity or \$\_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).
4. STATEMENT: [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 C.F.R. § 1.137(b) was unintentional (MPEP § 711.03(c), subsections (III)(C) and (D))].
  - ☒ The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 C.F.R. § 1.137(b) was unintentional.
  - ☒ See Attached Statement.

December 12, 2005

Date

Signature

202-293-7060

Telephone

Brian K. Shelton

Typed or printed name

50,245

Reg. No.

SUGHRUE MION, PLLC  
WASHINGTON OFFICE

**23373**

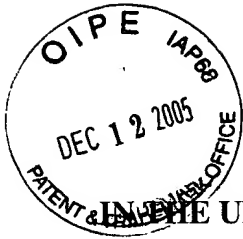
CUSTOMER NUMBER

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1500.00 DP

- Enclosures:
- ☒ Fee(s) Payment
  - ☒ Reply
  - ☐ Terminal Disclaimer
  - ☐ Additional sheets containing statements establishing unintentional delay
  - ☒ Statement



**PATENT APPLICATION**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of

Docket No: Q64483

Masaaki NISHINO

Appln. No.: 09/853,634

Group Art Unit: 2672

Confirmation No.: 7274

Examiner: AMINI, Javid

Filed: May 14, 2001

For: INFORMATION DISPLAYING SYSTEM

**STATEMENT IN SUPPORT OF PETITION FOR REVIVAL OF AN APPLICATION  
FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. § 1.137(B)**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In support of the Petition for Revival of the above-identified application as unintentionally abandoned, Applicant submits the following:

1. A Final Office Action was issued on January 24, 2005, in which the Examiner rejected claims 1-8 under 35 U.S.C. § 103(a) as being allegedly unpatentable over Herbert (U.S. Patent No. 6,014,125) in view of Ahmed et al. (U.S. Patent No. 6,774,912, hereinafter "Ahmed").

2. Applicant submitted a Response Under 37 C.F.R. § 1.116 on June 3, 2005, in which a Declaration Under 37 C.F.R. § 1.131 was presented to antedate the Ahmed reference. In the Declaration Under 37 C.F.R. § 1.131, Applicant presented evidence of conception prior to the effective date of Ahmed and diligence leading to constructive reduction to practice of the invention prior.

3. Subsequently, an Advisory Action was issued on July 12, 2005, in which the Examiner refused to consider the Declaration Under 37 C.F.R. § 1.131 because Applicant allegedly failed to show why the affidavit evidence had not been earlier presented. Ahmed, however, was first cited by the Examiner in the Final Office Action of January 24, 2005,

STATEMENT IN SUPPORT OF PETITION FOR REVIVAL OF AN APPLICATION FOR  
PATENT ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. § 1.137(B)

Application Serial No. 09/853,634  
Attorney Docket No. Q64483

therefore the submission of the Declaration Under 37 C.F.R. § 1.131 to antedate the Ahmed reference could necessarily not have occurred earlier, and the Examiner's refusal to consider this evidence was improper.

4. Applicant resubmitted the Declaration Under 37 C.F.R. § 1.131 in the Response Under 37 C.F.R. § 1.116 filed on July 22, 2005 pointing out the improper refusal to consider the evidence of prior conception and reduction to practice. *See* Response of July 22, 2005 at page 2.

5. On August 9, 2005, the undersigned attorney for Applicant attended a personal interview which was initiated by the Examiner after the filing of the Response of July 22, 2005. As evidenced by the Examiner's Interview Summary, which is attached as Exhibit A, the undersigned attorney discussed the Declaration Under 37 C.F.R. § 1.131 with the Examiner, who agreed to review the Declaration and withdraw the previous Office Action if the Declaration was determined to be sufficient.

6. On November 29, 2005, an Advisory Action was issued in which the Examiner alleges that the Declaration Under 37 C.F.R. § 1.131 is "not sufficient to overcome the reference." Concurrent with the instant Petition, Applicant appeals this determination.

7. The activity subsequent to the expiration of the six month period from the issuance of the Final Office Action of January 24, 2004 indicates that the abandonment of the present invention was unintentional and revival of the present Application is therefore requested.

STATEMENT IN SUPPORT OF PETITION FOR REVIVIAL OF AN APPLICATION FOR  
PATENT ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. § 1.137(B)

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8. Further, in view of the improper refusal to consider the Declaration Under 37 C.F.R. § 1.131 when originally submitted with the Response filed on June 3, 2005, which resulted in loss of the response period, and the additional expense necessitated with the re-submission of the Declaration and extension fee, Applicant respectfully requests that the fee of \$1500.00 be refunded.

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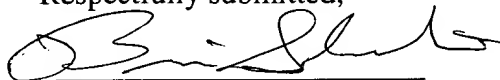
WASHINGTON OFFICE

**23373**


CUSTOMER NUMBER

Date: December 12, 2005

Respectfully submitted,



Brian K. Shelton  
Registration No. 50,245

	Application No. 09/853,634	Applicant(s) NISHINO, MASAOKI	
	Examiner Javid A. Amini	Art Unit 2672	

All participants (applicant, applicant's representative, PTO personnel):

(1) Javid A. Amini. (3) Brian Shelton.

(2) \_\_\_\_\_. (4) \_\_\_\_\_.

Date of Interview: 09 August 2005.

Type: a) ☐ Telephonic b) ☐ Video Conference  
c) ☒ Personal [copy given to: 1) ☐ applicant 2) ☒ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.  
If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: 1.

Identification of prior art discussed: Ahmed et al.

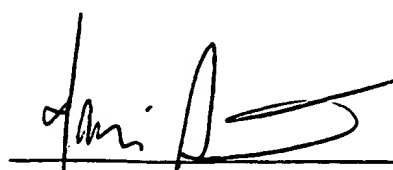
Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Applicant explained the summary of the invention and analyzed claim 1 line by line. Examiner suggested the claim languages are very broad, and Applicant needs to be more specific toward the invention. Applicant argued regarding the affidavit 1.131 after final should be entered, Examiner agreed to review the Affidavit 1.131. If the affidavit is sufficient the previous office action will be withdrawn.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

  
 Examiner's signature, if required

## Summary of Record of Interview Requirements

### Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

### Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

#### Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

#### 37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

#### Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.